

# Exhibit A

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

This document relates to:

*Southwest Mississippi Regional Medical  
Center, et al. v. AmerisourceBergen Drug  
Corp., et al., Case No. 1:17-op-45175, and all  
Hospital Cases.*

MDL 2804

Case No. 17-md-2804

Hon. Dan Aaron Polster

**[PROPOSED] RENEWED MOTION TO APPOINT INTERIM  
CLASS COUNSEL FOR HOSPITAL CLASS**

Plaintiffs named in the above-captioned constituent case (“Plaintiffs” or “Hospital Plaintiffs”) respectfully request that the Court appoint John W. (“Don”) Barrett as Interim Class Counsel pursuant to Fed. R. Civ. P. 23(g) for the reasons stated below and in the accompanying “Memorandum in Support of Motion for Leave to File, and in Support of, Proposed Renewed Motion for Appointment of Interim Class Counsel for Hospital Class,” and “Declaration of Don Barrett in Support of Renewed Motion for Appointment of Interim Class Counsel for Hospital Class” (“Barrett Declaration”).<sup>1</sup>

Hospital Plaintiffs seek to assure that their interests, and those of a proposed nationwide class of hospitals (the “Hospital Class”), are thoroughly and efficiently represented by an Interim Class Counsel committed to working toward the best interests of Hospital Plaintiffs, and only Hospital Plaintiffs, as this litigation and settlement negotiations continue. Appointing an Interim Class Counsel at this time should satisfy any Defendants who seek assurance that the undersigned

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<sup>1</sup> The Barrett Declaration is attached as Exhibit B to the “Motion for Leave to File Proposed Renewed Motion for Appointment of Interim Class Counsel for Hospital Class” (the “Motion for Leave”).

can speak for the Hospital Class in this case. Hospital Plaintiffs also believe appointment would be helpful in settlement negotiations in a number of ways. Some Defendants may want to seek a class-wide settlement and granting this motion will help to deter Defendants from obtaining a “reverse auction” that does not maximize the return to hospitals but cheaply settles their claims at bargain-basement rates. As Mr. Barrett and his colleagues are not the only lawyers to represent hospitals, an order under Federal Rule of Civil Procedure 23(g) appointing Interim Class Counsel would deter Defendants from conducting such a “reverse auction.”

Hospital Plaintiffs believe that Mr. Barrett would best represent their interests. Mr. Barrett brought the first case on behalf of hospitals in late 2017, which was promptly transferred to this MDL. Mr. Barrett was appointed by this Court and has been serving since January 2018 as the sole member of the Plaintiffs’ Executive Committee (“PEC”) representing the interests of Hospitals there. *See* Dkt. Nos. 36, 37. His selection for appointment to the PEC reflects his early leadership in the nascent stage of Hospital Plaintiff cases, including the first-filing of cases on behalf of Hospitals to recover for their unique harms arising from the opioid epidemic. He has assembled a team of prominent firms with national reputations<sup>2</sup> representing hospitals in opioids cases. In this MDL, the Barrett Team filed the first RICO class action<sup>3</sup> on behalf of U.S. hospitals against the manufacturers and distributors of opioids, as well as the bellwether *West Boca Medical Center* case,<sup>4</sup> which survived a motion to dismiss. Mr. Barrett and the Barrett Team have been retained

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<sup>2</sup> The Barrett Team includes the law firms of Burns Charest, LLP (<https://www.burnscharest.com/>); Clifford Law Offices, P.C. (<https://www.cliffordlaw.com/>); Cuneo Gilbert & LaDuca, LLP (<https://cuneolaw.com/>); Farmer, Cline & Campbell, PLLC (<https://www.farmerclinecampbell.com/>); and Taylor Martino Rowan, P.C. (<https://taylormartino.com/>). All have substantial experience in complex litigation and successful track records.

<sup>3</sup> *Southwest Mississippi Regional Medical Center, et al. v. AmerisourceBergen Drug Corp., et al.*, Case No. 1:17-op-45175 (N.D. Ohio).

<sup>4</sup> *West Boca Medical Center, Inc. v. AmerisourceBergen Drug Corp, et al.*, Case No. 1:18-op-45530 (N.D. Ohio).

by 945 hospitals in 43 states (approximately 15% of the nation's acute care hospitals), many of which are located in the Appalachian center of the opioids crisis (West Virginia, Kentucky, Tennessee), and other hard-hit areas such as Florida. Overall, the Barrett Team has filed 25 cases state and federal courts<sup>5</sup> on behalf of hospitals in connection with the opioids epidemic. The Barrett Team has also spent substantial time and money investigating hospital's unique claims, as well as retaining experts and developing a damages model to support hospital claims. Mr. Barrett has also led settlement negotiations for hospitals in four courts (Alabama, West Virginia, Missouri, and in this MDL), and has successfully settled claims in bankruptcy through which hospitals potentially stand to recover in excess of \$300 million. The Purdue Pharma bankruptcy trial allowed for cross-examination of the modeling and resulting trust distribution procedures established by the Barrett Team. In connection with the bankruptcies, Mr. Barrett's clients were (and remain) engaged and their clinicians devised meaningful uses for the funds distributed as a condition of trust participation by the country's acute care hospitals.

Outside of the opiate cases, Mr. Barrett also has a substantial amount of experience shepherding large-scale complex actions to successful conclusions. *See generally* Barrett Declaration attached as Exhibit B to the Motion for Leave.

In short, Mr. Barrett meets the applicable standards for appointment as an Interim Class Counsel for the Hospital Class in this MDL and has demonstrated with the work he has done since 2017 on behalf of hospitals, without conflicts, that he will adequately and fairly represent their interests. Accordingly, Hospital Plaintiffs seek the appointment of John W. ("Don") Barrett as Interim Class Counsel on behalf of the Hospital Class.

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
John W. ("Don") Barrett

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<sup>5</sup> A case list is attached as Exhibit C to the Motion for Leave.

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**CERTIFICATE OF SERVICE**

I hereby certify that on \_\_\_\_\_, 2023, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ \_\_\_\_\_  
John W. ("Don") Barrett